

ORIGINAL

RECEIVED

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554**

JUN 17 1997

Federal Communications Commission
Office of Secretary

DOCKET FILE COPY ORIGINAL

In the Matter of

Telephone Number Portability

)

)

)

CC Docket No. 95-116

DA 97-916

REPLY

BellSouth Corporation, on behalf of its affiliated companies, and by counsel, files its reply to certain comments submitted on the North American Numbering Council's ("NANC") recommendations concerning local number portability ("LNP") administration.¹ BellSouth agrees with commenters who conclude that the FCC must take "further steps to guarantee that all carriers are in fact treated in a competitively neutral manner" beyond the steps recommended by the NANC with respect to limited liability company ("LLC") oversight of regional LNP administrators.²

At the outset, BellSouth agrees that the NANC and all the people who have participated in its activities have done an exemplary job of carrying out the Commission's directives and doing so on the expedited schedule established by the Commission.³ Although the Southeast Number Portability Administration Company, L.L.C., of which BellSouth is a member, is currently

¹ North American Numbering Council, Local Number Portability Administration Selection Working Group (April 25, 1997); Public Notice DA 97-916 (FCC Common Carrier Bureau released May 2, 1997).

² USTA Comments at 3.

³ Bell Atlantic and NYNEX Comments at 1.

No. of Copies rec'd
List ABCDE

0410

functioning in a problem-free manner with no known instances of discriminatory conduct,⁴ it is imperative that, as AT&T observed in another context, “impartial and neutral entities administer all numbering resources,”⁵ including regional LNP administration databases. This Commission simply cannot waive its own rules based upon a “recommendation” by NANC that is touted as a “reasonable compromise and accommodation” of number administration neutrality criteria established by the Commission pursuant to notice and comment rulemaking.

This Commission has determined that regional LNP administrators must be competitively neutral according to the criteria established earlier by the Commission in its *NANP Order*.⁶ Essentially, each LNP Administrator must be a non-governmental agency not aligned with any industry segment.⁷ The various regional limited liability companies (“LLCs”) that NANC now proposes to have oversight and control over LNP administrators are companies created under state law whose members (and/or their representatives) are comprised exclusively of *one* segment of the telecommunications industry: wireline local exchange carriers (“LECs”). Because competitive LECs (“CLECs”) make up the majority of LNP LLC membership, and because these LLCs operate under the rule of majority,⁸ these membership-governed companies are, in fact, “controlled” by the CLECs.⁹ They are not, therefore, competitively neutral by any measure

⁴ See, e.g., In the Matter of Toll Free Service Access Codes, CC Docket No. 95-155, Comments of AT&T Corp. at 4 (May 22, 1997) (discussing 800 SMS database administration).

⁵ *Id.* at 2.

⁶ *Telephone Number Portability, First Report and Further Notice of Proposed Rulemaking*, 11 FCC Rcd 8352, ¶ 92 (rel. July 2, 1996) (“*Number Portability Order*”).

⁷ WorldCom Comments at 4-5, n.1.

⁸ USTA Comments at 3.

⁹ Bell Atlantic and NYNEX Comments at 2.

established by the Commission.¹⁰ Contrary to the comments of AT&T and WorldCom, the NANC recommendation cannot, standing alone, pass muster under the Commission's precedent.

LLCs as presently constituted do not pass muster under this Commission's competitive neutrality criteria established in the *NANP Order* and applied to LNP regional database administration in the *Number Portability Order*. As with NYNEX, however, BellSouth has not experienced the kinds of issues that Bell Atlantic has in connection with the actual governance of the LLC.¹¹ Nevertheless, the integrity of the Commission's established competitive neutrality criteria must be maintained in each of the contexts in which the Commission has determined that they are appropriately applied.¹²

BellSouth believes that any of the three proposals advanced by Bell Atlantic and NYNEX, as well as the proposal for minimum guidelines advocated by USTA, would operate to bring the regional LLCs' relationship with the regional LNP administrators into compliance with the neutrality criteria established in the Commission's *NANP Order*. Based on BellSouth's own positive experiences with the Southeast Number Portability Administration Company, L.L.C., and as a participant on various NANC Working Group Task Forces,¹³ BellSouth strongly

¹⁰ *Administration of North American Numbering Plan, Report and Order*, 11 FCC Rcd 2588, ¶¶ 57-59 (rel. July 13, 1995) ("*NANP Order*").

¹¹ Bell Atlantic and NYNEX Comments at 4-5 and n.9.

¹² Bell Atlantic and NYNEX draws the Commission's attention to comments filed by AT&T and Sprint last month in CC Docket 95-155. This comparison is apt. No party filing comments in this proceeding has provided any rationale why the combination of (1) a lack of any actual problems in administering a numbering resource and (2) continuing federal regulatory oversight can "cure" multiple LEC-aligned, and CLEC-controlled, LLCs, while the same combination apparently does not "cure" a numbering resource "administrator" that is arguably "aligned" with RBOCs. *NANP Order* at ¶ 57-59, *Number Portability Order* at ¶¶ 92-93. In any event, Bell Atlantic's actual experience with one LLC cannot be ignored.

¹³ BellSouth is not a member of NANC.

recommends that the Commission adopt Bell Atlantic and NYNEX's second proposal, that the FCC delegate oversight of the regional LNP administrators to an industry or standards body that operates by consensus under the rules of the American National Standards Institute.

This body, as Bell Atlantic and NYNEX correctly observe, cannot be the NANC because, as a federal advisory committee, its charter limits its powers to providing advice to a federal government department or agency. In addition, NANC membership is currently limited to 32 voting entities selected across industry segments. Any oversight body must be completely open to all industry parties. An Alliance for Telecommunications Industry Solutions ("ATIS") forum is especially appropriate, in light of the need to develop national standard requirements for location and service portability.

Another alternative would be to form a single, national LLC to oversee the regional LNPAs. The membership of such a "national" LLC would be open to all industry segments. Such a centralized entity would "ensure consistency" and "provide a national perspective on number portability issues."¹⁴ As presently constituted, a CLEC like WorldCom that is a member of each regional LNPA LLC¹⁵ could theoretically have seven opportunities to work an issue to the detriment of the interests of ILECs. Standard setting could become balkanized, and, as a practical matter, the momentum established by a CLEC majority within any one regional LLC could be repeated by CLEC majorities throughout other regional LLCs and ultimately drive the outcome of technical and operational decisions that were meant to be resolved on a national level to ensure efficiency and uniformity.

¹⁴ *Number Portability Order* at ¶ 93 (discussing rationale for designating NANC to select the LNPA(s)).

¹⁵ WorldCom Comments at 2.

BellSouth believes that there were compelling reasons to create regional LLCs in order to implement the Commission's number portability requirements even as the Commission went about creating NANC. These LLCs have served, and will continue to serve (at least for a limited period), important functions with respect to implementing LNP. Yet it is premature to definitively establish their long-term role with respect to LNP administration, and, as presently constituted, they do not comport with the neutrality requirements for LNP administrators established by the Commission in the *Number Portability Order*. The Commission's best course of action is to allow the LLCs to continue to operate to implement LNP in connection with the LNP administrators that they have selected, but to delegate oversight of the LNPA to an ATIS forum that is open to all industry members and that operates by consensus or to a "national" LLC.

CONCLUSION

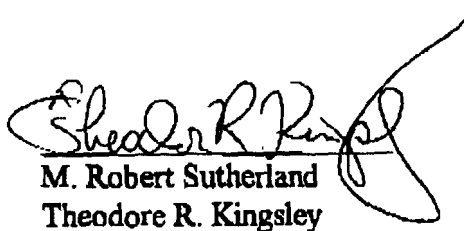
The Commission should adopt the recommendations of the NANC Working Group except with respect to the section dealing with the continuing oversight of regional LNP administrators. This portion of the recommendation is inconsistent with the Commission's neutrality criteria established in its *NANP Order* and its *Number Portability Order*. The Commission should delegate such oversight authority to an industry or standards body that operates by consensus, or

to a national LLC. This body should also continue to address other important LNP issues, including the development of location and service number portability issues.

Respectfully submitted,

BELLSOUTH CORPORATION

By:



M. Robert Sutherland
Theodore R. Kingsley

Their Attorneys

Suite 1700
1155 Peachtree Street, N.E.
Atlanta, Georgia 30309-3610

(404) 249-3392

DATE: June 17, 1997

CERTIFICATE OF SERVICE

I hereby certify that I have on this 17th day of June, 1997 served the following parties to this action with a copy of the foregoing **REPLY** by placing a true and correct copy of the same in the United States Mail, postage prepaid, addressed to the parties on the attached service list.



Sheila Bonner

CC DOCKET NO. 95-116

Mary McDermott
Linda Kent
Keith Townsend
Hance Haney
U. S. TELEPHONE ASSOCIATION
1401 H Street, N.W.
Suite 600
Washington, D.C. 20005

John M. Goodman
BELL ATLANTIC
1300 I Street, N.W.
Washington, D.C. 20005

Campbell L. Ayling
NYNEX
1095 Avenue of the Americas
New York, NY 10036

James H. Bolin, Jr.
Mark C. Rosenblum
Roy E. Hoffinger
AT&T CORP.
Room 3247H3
295 North Maple Avenue
Basking Ridge, NJ 07920

Wendy C. Chow
Michael F. Altschul
Randall S. Coleman
CELLULAR TELECOMMUNICATIONS INDUSTRY
ASSOCIATION
1250 Connecticut Avenue, N.W.
Suite 200
Washington, D.C. 20036

Thomas E. Taylor
Sr. Vice President-General Counsel
CINCINNATI BELL TELEPHONE COMPANY
201 East Fourth Street
6th Floor
Cincinnati, Ohio 45202

Christopher J. Wilson
Christina M. Strick
ATTORNEYS FOR CINCINNATI BELL
TELEPHONE COMPANY
FROST & JACOBS LLP
2500 PNC Center
201 East Fifth Street
Cincinnati, Ohio 45202

Emily C. Hewitt
George N. Barclay
Michael J. Ettner
GENERAL SERVICES ADMINISTRATION
18th & F Streets, N.W.
Room 4002
Washington, D.C. 20405

Richard S. Whitt
Anne F. LaLena
WORLDCOM, INC.
1120 Connecticut Avenue, N.W.
Suite 400
Washington, D.C. 20036

*Janice Myles
Common Carrier Bureau
Federal Communications Commission
Room 544
1919 M Street, N.W.
Washington, D.C. 20554

* Hand Delivery